

**Water Use Advisory Council (WUAC) Meeting**

**Tuesday, August 18, 2020**

**1:00 p.m.-3:00 p.m.**

**On Teams Hosted by the Department of Environment, Great Lakes, and Energy (EGLE)**

**MINUTES**

**1. Welcome**

Laura Campbell, Co-Chair, Farm Bureau, welcomed members and guests and shared the logistics for participation in the meeting. She noted she will be sharing the Chair role with fellow Chairs Eggers and Burroughs also facilitating portions of the agenda. She then took roll call attendance of members and their alternates. Members were individually asked to provide any comments and/or changes regarding the agenda and minutes at this time. The attendance of non-members present via Teams and phone were then asked to introduce themselves to record their attendance.

**2. Roll Call**

**WUAC Members/Alternates in Attendance:**

Margaret Bettenhausen, Attorney General  
Jim Johnson/Abigail Eaton, Department of Agriculture and Rural Development (MDARD)  
Brian Eggers, AKT Peerless  
Bryan Burroughs/Taylor Ridderbusch, Michigan Trout Unlimited  
Christine Alexander, Department of Environment, Great Lakes, and Energy (EGLE)  
Dave Hamilton, The Nature Conservancy Retired  
Doug Needham, Michigan Aggregates Association  
Frank Ettawageshik, United Tribes of Michigan  
James Clift, Deputy Director, EGLE  
Jason Walther/Kelly Turner, Agricultural Irrigators  
Jim Nicholas, Nicholas-H2O  
John Yellich, Michigan Geological Survey  
Laura Campbell/ Michigan Farm Bureau  
Buddy Sebastian/Mike Frederick, Michigan Groundwater Association  
Mike Gallagher, Michigan Lake Stewardship Associations  
Pat Staskiewicz/Clyde Dugan, Michigan Section American Water Works Association  
Scott DeBoe/Rachel Proctor, Consumers Energy  
Steve Kohler, Kalamazoo River Watershed Council  
Tom Zimnicki, Michigan Environmental Council  
Tom Frazier, Michigan Townships Association  
Tammy Newcomb, Michigan Department of Natural Resources (MDNR)

**WUAC Members/Alternates Absent:**

Charlie Scott, Michigan Golf Course Owners Association  
Grenetta Thomassey, Tip of the Mitt Watershed Council

Jason Geer, Michigan Chamber of Commerce  
Kyle Rorah/Nikki Ghorpade, Ducks Unlimited  
Matt Smego, Michigan Farm Bureau  
Rich Bowman, The Nature Conservancy  
Sue Hanf, Michigan Aggregates Association

**Non-members present:**

Andy LeBaron, EGLE  
Bob Ottwell, FLOW  
Christine Spitzley, OHM Advisors  
Clay Joupperi, EGLE  
Dave Lusch, MSU Retired  
Elle Gulotty, MDNR Fisheries Division  
Emily Finnell, Office of the Great Lakes  
Hannah Arnett, EGLE  
Jeremiah Asher, Institute Water Research, Michigan State University  
Jim Milne, EGLE  
Jim Ostrowski, EGLE  
Laura Doud, MDARD  
Matt Tomlinson, EGLE  
Nathaniel Shuff, EGLE  
Ralph Haefner, USGS  
Teresa Seidel, EGLE  
Stephen Gasteyer, MSU  
Jill Van Dyke, EGLE  
Ben Tirrell, Farm Bureau  
Todd Feenstra, Tritium, Inc  
Jacob Sauter  
Rachelle VanDeventer, MITA  
Howard Reeves, USGS

**3. Approval of Agenda-Roll Call Vote**

Agenda approved by consensus as presented. No comments/edits received.

**4. Approval of Minutes-Roll Call Vote**

The June 23, 2020 minutes were approved by consensus as presented. No comments/edits received.

**5. Public Comment**

There was no public comment.

*(At this time, Co-Chair Brian Eggers assumed role of meeting Chair.)*

## **6. Program Staff Update --Jim Milne**

Milne noted issues with the DTMB's server that are affecting the WWAT.

For the last couple of years Michigan Infrastructure and Transportation Association (MITA) hosted construction dewatering stakeholder group meetings with EGLE WRD staff, MITA, sponsoring agencies, contractors, & subcontractors. Those meetings led to changes to the Part 327 permit application and permit templates. The changes mainly dealt with the descriptions of the project location, project duration, special permit conditions, and how to handle changes in the project scope as the project progresses through the design process. Future outreach activities include magazine and newsletter articles, and presentations.

The statute asks for some metrics in the annual legislative report that are different from the metrics that the Water Use Program usually reports on at the council meetings.

### Annual Part 327 Legislative Report

- Zone C site-specific review (SSR) requests= 49
- SSRs changed from Zones C to A= 8
- SSRs changed from Zones B to A = 7
- Zone C SSRs denied (Zone D) = 0
- SSRs completed > 10 business days = 56
- Zone A WWAT registrations = 31
- Zone B WWAT registrations = 31
- Voluntary requests for SSRs = 0
- Total registrations (WWAT + SSR) = 426

It was also noted that if a project whose processing gets delayed or expects a denial it may be retracted created a discrepancy in the numbers presented.

Water Use Program Metrics for Program Year 11 are for the period from July 9, 2019 through July 8, 2020. The statutory deadline for making conventional SSR decisions is 10 business days. The temporary layoff days affected our SSR timeliness metrics slightly, but decisions were still timely all things considered.

- 0 Alternative analyses
- 154 SSRs submitted
- 56 SSR decisions not made  $\leq$  10 days
- 13 total SSRs still pending
- 63% of SSR decisions made  $\leq$  10 days
- Average days to SSR decision 11

The Year 11 Compliance figures are totals for the period between July 9, 2019 and July 8, 2020. Amended registrations are for LQWs that were installed &/or operated differently than were authorized by the WWAT or SSR where there was stream flow available to authorize the as built/as operated LQW. After the fact registrations are issued when there is enough stream flow available to authorize unregistered LQWs after the fact. Missing pump information compliance

communications are sent for well logs that are missing pump information, usually because the property owner installs the pump sometime after the well was completed (e.g., horizontal wells). The violations closed number reflects that violations that were successfully closed after the property owner came back into compliance with Part 327.

Compliance Communications:

- Amended registrations 654
- After the fact registrations 173
- Missing pump information 188
  
- First Violation Notices 29
- Second Violation Notices 2
- Violations Closed 14
  
- Complaints Received 11

Milne shared the cumulative statistics for the Program from Years 1-11 including cumulative totals for the WWAT and SSR registrations from 2009-2020, trends in average time to complete an SSR review and percent trend in timeliness. The trend in timeliness statistics is improving in recent years, mainly due to additional staff being added to the Water Use Program.

**7. Update on Depleted Water Management Areas—Jim Milne**

Milne gave an update on the status of Depleted Water Management Areas in Michigan where the stream flow is currently depleted into Zone D, beyond the point where an Adverse Resource Impact is likely. He began by explaining how EGLE tracks cumulative stream flow depletions. He explained the cumulative stream flow depletion tracking like a checkbook balance with ongoing deposits and debits. When the balance of available stream flow gets down to 0 or in the negative (Zone D), then no further withdrawals can be authorized.

He shared a map showing how the WWAT was designed to handle bedrock wells and then explained the bedrock auto-pass authorizations. (He noted the Council's 2014 report contains a more in-depth discussion of the bedrock auto-pass feature. If anyone is interested in learning more, he will be happy to explain it in more detail outside of this meeting.) This feature assumed that these bedrock aquifers are not hydraulically connected to stream flow. It is now understood that in some areas of the State, these bedrock aquifers are hydraulically connected to surface water. The bedrock auto-pass feature was disabled in 2013. If our geology reviews indicate that the bedrock aquifers are likely hydraulically connected to surface water, Water Use Program staff have adjusted the cumulative depletion totals to account for the depletions from these bedrock wells. It should be noted that the rebuttable presumption for withdrawals authorized by the WWAT or SSRs does apply.

The most common way that EGLE discovers violations of Part 327 happens well after the fact when the compliance review of a Water Management Area compares the LQW registrations,

well logs, and water use reports. Accounting for the depletions from unregistered LQWs can push Water Management Areas into Zone D until the violation(s) are brought into compliance with Part 327. Pumping LQWs more than the authorized withdrawal volumes can push the WMA into Zone D. LQWs that are installed and/or operated differently than were authorized by the WWAT or SSR can push the WMA into Zone D.

Milne shared a map of Depleted Water Management Areas that will still be in Zone D even after EGLE denies any pending SSRs. This was followed by a table identifying the status and next steps of each area identified on the map.

## **8. Cass County Study Summary**

### **a. Presentation by Todd Feenstra**

Feenstra presented a summary of the Cass County Pilot Project. Due to time constraints he was unable to give the entire presentation however it is available on the WUAC page of the EGLE website. The presentation given focused on the data collection and comparisons of various data collection methods. Feenstra will give a presentation on the groundwater model created for the Cass County Study at the Models Committee meeting on August 26, 2020.

### **b. EGLE/USGS Comments**

Due to time constraints the Chair deferred these comments to a future meeting after the Models Committee meets on August 26, 2020. Milne will give a summary presentation of EGLE's and USGS' comments on the Cass County Study's groundwater model at the Models Committee meeting on August 26, 2020.

### **c. Models Committee Next Steps**

Hamilton reported the Models Committee will meet August 26 1-4 p.m. to discuss this important effort. The meeting will be taped for those unable to attend and hear the discussion.

Per Turner's question, it was clarified that the Technical Committee referenced in Feenstra's presentation is not a committee of the WUAC. There were separate Technical Advisory and Steering Committees for the Cass County, which were eventually merged into one committee. The remainder of Feenstra's presentation will be made a later date.

## **9. Process and Timeline for Completing 2020 Legislative Report—Christine Spitzley**

Spitzley again shared the goals for the December 2020 Legislative Report and noted format and content changes from the 2014 Report. The 2020 Report will only be in digital form and will be designed to be understood by the layperson. It will be shorter, more concise with limited, prioritized recommendations strategies accompanied by implementation strategies and budgets as applicable. It will highlight the WUAC's accomplishments and goals and provide one clear voice to the Legislature. Spitzley walked through the requested format for Committees to provide their recommendations to the Implementation Committee. She also outlined the next steps and timeline for completing the Report by the December 2020 deadline.

*(At this time, Co-Chair Bryan Burroughs assumed role of meeting Chair.)*

## 10. Updates

### ▪ **Data Collection Committee**

Burroughs announced the next meeting of the Data Committee will be tomorrow August 19, 2020 from 3-5 p.m. via Zoom. The purpose of the meeting will be working to complete recommendations and report drafts for the September WUAC meeting. Burroughs outlined the Committee's work to date, the topics the group intends to include in their recommendations and future work to be completed by the Committee. The Committee will be accounting for what has been done, what needs to be done, how it needs to be done, and general approaches needed to get things done. He also noted they have discussed all previous recommendations to identify what has been done, and what remains to be done to complete each.

### **Implementation Strategies Committee**

Needham asked that recommendations for the Legislative Report be sent to the Implementation Committee by the September 15 WUAC meeting. He highlighted the goals of the committee and noted they will be working to coordinate the priorities of the WUAC Committees for a consistent message in the Report. He reiterated Committee recommendations should include problem statement, steps needed to achieve task, desired outcome and estimate of cost for implementation.

### ▪ **Models Committee**

The Committee has been considering improvements to the tool and ways to enhance it. They will bring their recommendations to the WUAC. Examples of the tool applications include:

- Establish aquifer properties
- Streamflow depletion
- Bring calibrated models to screening tool

The Committee will review the Cass County model and ways it can be used going forward to inform other model development.

### ▪ **New Topics Committee**

#### **Water Users Group—Emily Finnell**

Finnell reported the Water Users Group has met three times since the June 23 WUAC meeting. They have developed a draft water user's manual outline containing information, tools, and tactics to help resolve water supply conflicts. They have also been working on a FAQ on Michigan's water laws to help frame the issues for water user groups.

#### **Water Conservation Workgroup Recap—Kelly Turner**

The group conducted an assessment that compared the WUAC recommendations and the MI Water Strategy recommendations ranking by effort and impact. They then compiled the rankings into a matrix to highlight which recommendations should be prioritized. Two

recommendations rose to the top. WC1.2 (Michigan Water Strategy Goal 5, Recommendation 2) and WC 1.3 (Michigan Water Strategy Goal 5, Recommendation 4) They also noted as additional priority WC 2.2 (Michigan Water Strategy Goal 5, Recommendation 6) and subsequent recommendations WC 2.2a-d, with emphasis on WC 2.2 b.

**11. Next Meeting September 15, 2020**

Chair Burroughs noted the next meeting will be held on Teams on September 15, 2020 at 1 p.m.

**12. Open Comments**

Ettawageshik requested an additional thirty minutes be added to the September 15 WUAC meeting to allow time for anticipated discussions.

**13. Next meetings**

- September 15, 2020
- October 20, 2020
- December 15, 2020

**14. Motion to Adjourn**

There being no further business, Co-Chair Burroughs called for a motion to adjourn. It was MOVED by Hamilton and SUPPORTED by Ettawageshik to adjourn the meeting. Meeting adjourned by consensus.